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**Re: UE 339– In the Matter PACIFICORP, dba PACIFIC POWER, 2019 Transition
Adjustment Mechanism**

Attention Filing Center:

Attached for filing in the above-captioned docket is an electronic copy of PacifiCorp's Opening Brief.

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Very truly yours,

Wendy McIndoo
Office Manager

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 339**

In the Matter of:

PACIFICORP d/b/a PACIFIC POWER

2019 Transition Adjustment Mechanism

PACIFICORP'S OPENING BRIEF

August 14, 2018

TABLE OF CONTENTS

I. INTRODUCTION 1

 A. Including *net* EIM benefits in the TAM is consistent with Commission precedent. 2

 B. Removal of the EIM costs violates the matching principle. 4

 C. AWEC provides no principled basis to remove EIM costs. 5

II. CONCLUSION..... 8

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Davenport Water Company v. Iowa State Commerce Comm’n</i> , 190 N.W.2d 583 (Iowa 1971)	4
<i>Town of Norwood v. FERC</i> , 53 F.3d 377 (D.C. Cir. 1995)	4
Public Utility Commission of Oregon Orders	
<i>In the Matter of PacifiCorp, dba Pacific Power, 2011 Transition Adjustment Mechanism</i> , Docket No. UE 216, Order No. 10-363 (Sept. 16, 2010)	7
<i>In the Matter of PacifiCorp, dba Pacific Power, 2015 Transition Adjustment Mechanism</i> , Docket Nos. UE 278 and UM 1689, Order No. 14-331 (Oct. 1, 2014)	3, 6, 7
<i>In the Matter of PacifiCorp, dba Pacific Power, 2016 Transition Adjustment Mechanism</i> , Docket No. UE 296, Order No. 15-394 (Dec. 11, 2015)	3, 4
<i>In the Matter of PacifiCorp, dba Pacific Power, 2017 Transition Adjustment Mechanism</i> , Docket No. UE 307, Order No. 16-482 (Dec. 20, 2016)	3, 4, 5
<i>In the Matter of PacifiCorp, dba Pacific Power, 2018 Transition Adjustment Mechanism</i> , Docket No. UE 323, Order No. 17-444 (Nov. 1, 2017)	2, 4
<i>In the Matter of the Public Utility Commission of Oregon Investigation of Automatic Adjustment Clause Pursuant to SB 838</i> , Docket No. UM 1330, Order No. 07-572 (Dec. 19, 2007)	4
Statutes	
ORS 757.259(2)(e)	4
Other Authorities	
<i>Re Interstate Power and Light Co.</i> , 225 P.U.R.4th 227 (Iowa Util. Bd. 2003)	4

1 **I. INTRODUCTION**

2 PacifiCorp d/b/a Pacific Power respectfully submits this opening brief to the Public
3 Utility Commission of Oregon (Commission). This brief addresses the only disputed issue in
4 the 2019 Transition Adjustment Mechanism (TAM)—whether to include costs incurred by
5 the company to participate in the Energy Imbalance Market (EIM) as an offset to EIM
6 benefits. The Alliance of Western Energy Consumers (AWEC) argues that the Commission
7 should ignore the matching principle and change its current approach by including only EIM
8 benefits without accounting for EIM costs. No other party has joined AWEC in challenging
9 the recovery of EIM costs. The effect of AWEC’s adjustment is a reduction of
10 approximately \$3.1 million, total company, in the 2019 TAM.

11 PacifiCorp recommends that the Commission affirm its precedent and include *net*
12 EIM benefits—EIM benefits less the costs—as a reduction to net power costs (NPC)
13 included in the TAM. EIM benefits *and costs* have been included in every TAM since the
14 company joined the market—without dispute. Not only has the inclusion of EIM costs been
15 uncontroversial, Staff, the Oregon Citizens’ Utility Board (CUB), and AWEC’s predecessor
16 (the Industrial Customers of Northwest Utilities (ICNU)) previously *insisted* that EIM costs
17 and benefits must flow together.

18 Offsetting EIM benefits with the costs incurred to produce those benefits is also
19 consistent with basic ratemaking principles that call for the matching of costs and benefits in
20 customer rates. It is fundamentally unfair for customers to receive EIM benefits without
21 paying the costs, just as it would be fundamentally unfair for customers to pay EIM costs
22 without receiving the benefits. Adherence to the matching principle requires that EIM costs
23 offset EIM benefits in the TAM until the costs are included in base rates.

1 There is no dispute that the company will incur costs to generate EIM benefits, and no
2 party challenged the reasonableness of the company’s forecasted EIM costs. The only
3 question, therefore, is whether customers should pay those costs if they receive the benefits.
4 AWEC cannot point to any change in circumstances or compelling reason for the
5 Commission to suddenly depart from its own precedent and jettison the matching principle in
6 favor of one-sided inclusion of EIM benefits without costs. Indeed, EIM benefits have
7 consistently increased over time while EIM costs have remained generally constant.
8 Therefore, EIM costs have become less significant over time relative to EIM benefits, not
9 more.

10 The purpose of the TAM is to produce an accurate NPC forecast. Omitting
11 undisputed costs produces an inaccurate forecast that thwarts this goal. AWEC’s
12 recommendation should be rejected and the Commission should affirm its well-reasoned and
13 previously undisputed inclusion of the *net* EIM benefits in the TAM.

14 **A. Including *net* EIM benefits in the TAM is consistent with Commission**
15 **precedent.**

16 “The EIM is a real-time balancing market that optimizes generator dispatch every five
17 and 15 minutes within and between the PacifiCorp and [the California Independent System
18 Operator] balancing authority areas.”¹ PacifiCorp joined the EIM in late 2014, and in each
19 TAM since that time, “EIM benefits are reflected as a reduction to the NPC forecast,” while
20 “EIM costs, including capital and operations and maintenance expense, are added to the
21 TAM to match the benefits.”²

¹ *In the Matter of PacifiCorp, dba Pacific Power, 2018 Transition Adjustment Mechanism*, Docket No. UE 323, Order No. 17-444 at 14 (Nov. 1, 2017).

² *Id.*

1 EIM benefits have grown considerably since the company joined the market—from
2 \$10.1 million in the 2016 TAM to \$35.7 million here.³ Notably, while EIM benefits have
3 increased over 350 percent over the last three years, EIM costs have remained relatively
4 constant and modest in comparison.⁴ In this case, EIM benefits are more than 11 times
5 greater than EIM costs.⁵

6 The inclusion of *net* EIM benefits (*i.e.*, benefits less costs) as a reduction to NPC in
7 the TAM began through an all-party stipulation in the 2015 TAM.⁶ “Staff, CUB, and ICNU
8 all stated that costs and benefits must flow together,” and ICNU stressed that the company
9 should not be allowed to recover any EIM costs “unless the EIM benefits are included in the
10 net power costs in PacifiCorp’s TAM.”⁷ The stipulation approved by the Commission
11 included an agreement “to offset the EIM costs and benefits through 2015[.]”⁸ The inclusion
12 of EIM costs as an offset to benefits was an interim approach until EIM costs are reflected in
13 base rates following the company’s next general rate case.⁹

14 The company has not had a general rate case since the 2015 TAM. Therefore,
15 consistent with the framework approved by the Commission, every subsequent TAM has
16 included EIM costs as an offset to the benefits.¹⁰ Although parties have challenged the

³ PAC/100, Wilding/41; PAC/400, Wilding/7 (EIM benefits reported in the company’s testimony are total-company benefits).

⁴ *See, e.g., In the Matter of PacifiCorp, dba Pacific Power, 2016 Transition Adjustment Mechanism*, Docket No. UE 296, Order No. 15-394 at 8 (Dec. 11, 2015) (Oregon-allocated EIM costs of \$1.29 million); *In the Matter of PacifiCorp, dba Pacific Power, 2017 Transition Adjustment Mechanism*, Docket No. UE 307, Order No. 16-482 at 14 (Dec. 20, 2016) (Oregon-allocated EIM costs of \$1.56 million); PAC/400, Wilding/8 (\$3.1 million total-company EIM costs).

⁵ PAC/400, Wilding/8 (benefits are \$35.7 million, costs are \$3.1 million).

⁶ PAC/400, Wilding/8.

⁷ *In the Matter of PacifiCorp, dba Pacific Power, 2015 Transition Adjustment Mechanism*, Docket No. UE 278 and UM 1689, Order No. 14-331 at 5 (Oct. 1, 2014).

⁸ *Id.*

⁹ PAC/400, Wilding/8-9.

¹⁰ PAC/400, Wilding/8-12.

1 calculation of EIM benefits, no party ever disagreed that if EIM benefits are included, then
2 they must be offset by the costs.¹¹ The Commission has explicitly recognized that TAM
3 rates include *net* EIM benefits.¹² The Commission has also extended this same net benefits
4 framework to Portland General Electric Company and Idaho Power Company.¹³

5 In addition, since 2015, PacifiCorp has held numerous workshops with Staff, ICNU,
6 and CUB to specifically address how to account for EIM benefits in the TAM.¹⁴ None of
7 those workshops resulted in a change to the basic principle that EIM benefits should be offset
8 by the costs.¹⁵ Prior to AWEC’s adjustment in this case, the inclusion of EIM costs was
9 entirely uncontroversial.

10 **B. Removal of the EIM costs violates the matching principle.**

11 The fact that all parties supported the inclusion of both EIM costs and benefits in the
12 TAM until this case is not surprising because this approach is consistent with fundamental
13 ratemaking principles. The matching principle requires that “ratepayers are charged with the
14 costs of producing the service they receive.”¹⁶ “The inclusion of revenues without the
15 matching costs will deny the utility reasonable rates.”¹⁷ Oregon ratemaking recognizes the
16 matching principle.¹⁸

¹¹ AWEC/100, Mullins/23 (“I agree that the stipulation in UE 287 did authorize inclusion of EIM costs in the TAM in order to match benefits, and parties have since not challenged this treatment in subsequent TAM proceedings.”).

¹² Order No. 15-394 at 8 (“We find that, PacifiCorp’s 2016 EIM benefits, *net of EIM costs*, are \$1.41 million on an Oregon-allocated basis.”) (emphasis added); Order No. 16-482 at 14 (including the “*net* 2017 benefit of \$4.41 million for Oregon customers”) (emphasis added); Order No. 17-444 at 14 (“EIM costs . . . are added to the TAM to match the benefits.”).

¹³ PAC/400, Wilding/15.

¹⁴ PAC/400, Wilding/8-11.

¹⁵ PAC/400, Wilding/8-11.

¹⁶ *Town of Norwood v. FERC*, 53 F.3d 377, 380-381 (D.C. Cir. 1995).

¹⁷ *Re Interstate Power and Light Co.*, 225 P.U.R.4th 227 (Iowa Util. Bd. 2003) (citing *Davenport Water Company v. Iowa State Commerce Comm’n*, 190 N.W.2d 583, 605 (Iowa 1971)).

¹⁸ *See, e.g.*, ORS 757.259(2)(e) (authorizing deferrals “to match appropriately the costs borne by and benefits received by ratepayers”); *In the Matter of the Public Utility Commission of Oregon Investigation of Automatic*

1 Here, the matching principle requires that if the benefits of the EIM are included in
2 TAM rates—as they are—then those benefits should be appropriately offset by the costs
3 incurred to create the benefits. Otherwise, the company’s TAM rates will be set too low, and
4 customers will receive a benefit without paying the cost.

5 Moreover, not only would artificially low TAM rates violate the matching principle,
6 they are also contrary to the purpose of the TAM. The Commission’s “goal [in the TAM] is
7 to achieve an accurate forecast of PacifiCorp’s power costs for the upcoming year” because
8 the “accuracy of the [TAM] forecasts is of significant importance to setting fair[,] just[,] and
9 reasonable rates.”¹⁹ Proper matching of EIM benefits included in NPC and the EIM costs is
10 therefore essential to the integrity of the TAM and the accuracy of the TAM forecast.

11 AWEC’s own witness in this case, when testifying on behalf of AWEC’s predecessor,
12 and for other industrial customers, has emphasized repeatedly that EIM costs and benefits
13 must be matched—either in base rates, or through NPC.²⁰ Indeed, it was ICNU that argued
14 that EIM benefits must be included in the 2015 TAM, which resulted in the ultimate
15 settlement that included both EIM benefits and costs in the TAM.²¹ AWEC’s testimony here
16 does not reconcile its position in this case with its prior insistence that the matching principle
17 requires alignment of EIM costs and benefits in rates.

18 **C. AWEC provides no principled basis to remove EIM costs.**

19 AWEC has not disputed that the company will incur EIM costs in 2019, nor has
20 AWEC disputed the company’s forecast of those costs. But AWEC now claims that EIM

Adjustment Clause Pursuant to SB 838, Docket No. UM 1330, Order No. 07-572 at 5 (Dec. 19, 2007)
(renewable adjustment clause designed to match costs and benefits of renewable resources in rates).

¹⁹ Order No. 16-482 at 2-3.

²⁰ PAC/400, Wilding/12-13 (quoting Mr. Mullins’ previous testimony).

²¹ Order No. 14-331 at 3-4 (“ICNU stated that the TAM should include a base level of EIM benefits” and
“ICNU . . . stated that costs and benefits must flow together”).

1 costs should be excluded from customer rates.²² According to AWEC, customers should still
2 receive EIM benefits, while PacifiCorp bears all of the costs. AWEC points to no change in
3 circumstances that would support an abrupt change in Commission policy and violation of
4 the matching principle. Instead, AWEC advances several unpersuasive arguments that either
5 mischaracterize or ignore the prior treatment of EIM costs and benefits in the TAM.

6 First, citing the 2015 TAM stipulation, AWEC claims that the parties never intended
7 for EIM costs to be included in the TAM forever.²³ AWEC's testimony, however, omits the
8 fact that the in subsequent TAMs, the company explained—without objection—that the
9 approach used since the 2015 TAM was intended to last until EIM costs are included in base
10 rates.²⁴ The 2015 TAM stipulation includes no deadline by which the company must file a
11 rate case to include EIM costs in base rates.²⁵ AWEC provided no rationale for removing
12 EIM costs from the TAM before they are otherwise included in customer rates.²⁶

13 Second, AWEC argues that EIM costs are not tracked in the same Federal Energy
14 Regulatory Commission (FERC) accounts that the TAM Guidelines allow the company to
15 update in stand-alone TAM filings.²⁷ This argument glosses over the fact that the TAM
16 Guidelines were adopted in 2009 and predate the EIM. Post-EIM, the Commission approved
17 the 2015 TAM stipulation offsetting EIM benefits with EIM costs in a stand-alone TAM.²⁸
18 While the TAM Guidelines may restrict inclusion of certain non-NPC costs on a stand-alone
19 basis, the Commission has not interpreted the TAM Guidelines to preclude inclusion of such

²² AWEC/100, Mullins/24.

²³ AWEC/100, Mullins/23.

²⁴ PAC/400, Wilding/9-11.

²⁵ See Order No. 14-331; PAC/400, Wilding/9-11.

²⁶ PAC/400, Wilding/14.

²⁷ AWEC/100, Mullins/22-23.

²⁸ PAC/400, Wilding/14.

1 costs in accurately and fairly calculating a specific NPC benefit, like the EIM net benefit.²⁹
2 With the support of Staff, CUB, and ICNU, the Commission has reasonably construed the
3 TAM Guidelines to allow the company to include EIM benefits in the TAM net of EIM
4 costs.

5 Moreover, AWEC narrowly focuses on only those FERC accounts that define the
6 components of NPC included in the TAM.³⁰ AWEC ignores the fact that non-NPC benefits,
7 like production tax credits and other revenues, are included in the TAM as an offset to NPC
8 even though those benefits are not booked to the NPC FERC accounts AWEC identifies.³¹

9 Third, AWEC implies that PacifiCorp unilaterally chose to continue to include EIM
10 costs in the TAM.³² This argument, of course, ignores the actual historical treatment of the
11 EIM costs in the TAM and the fact, discussed above, that no party has ever previously
12 objected to the matching of EIM costs and benefits in the TAM.³³ Indeed, not only have
13 parties not opposed this treatment, parties—ICNU included—have actively supported it.³⁴

14 Fourth, AWEC argues that the Commission should disallow recovery of the EIM
15 costs because the company's earnings are healthy.³⁵ The Commission, however, has never
16 applied an earnings test when setting NPC in the TAM and doing so would undermine the
17 purpose of the TAM to set an accurate NPC forecast.³⁶

²⁹ PAC/400, Wilding/14.

³⁰ AWEC/100, Mullins/22-23 (“In UE 199, Order No. 09-274, the Commission adopted a stipulation that specified the *net power costs*, by FERC account, that PacifiCorp could update in a standalone TAM filing.”) (emphasis added).

³¹ See, e.g., *In the Matter of PacifiCorp, dba Pacific Power, 2011 Transition Adjustment Mechanism*, Docket No. UE 216, Order No. 10-363 (Sept. 16, 2010) (approving stipulation that allowed changes to Other Revenue to be included in stand-alone TAM filings if the revenue has a direct relation to NPC).

³² AWEC/100, Mullins/24.

³³ PAC/400, Wilding/8-11; AWEC/100, Mullins/23.

³⁴ See, e.g., PAC/400, Wilding/12-13; Order No. 14-331 at 5.

³⁵ AWEC/100, Mullins/24.

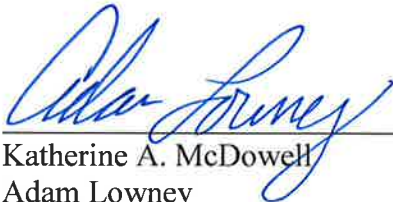
³⁶ PAC/400, Wilding/15.

1 Taken together, AWEC's testimony provides no rational basis for the Commission to
2 depart from the treatment of EIM costs and benefits that has been in place since the company
3 joined the EIM. AWEC does not dispute that the company will incur reasonable EIM costs
4 and the prior advocacy of AWEC and its witness acknowledges the importance of the
5 matching principle in reflecting the EIM in rates.

6 II. CONCLUSION

7 The purpose of the TAM is to produce an accurate NPC forecast for 2019. To this
8 end, forecasted NPC should be reduced by *net* EIM benefits, consistent with Commission
9 precedent. Removing EIM costs without also removing EIM benefits is patently unfair,
10 produces a less accurate NPC forecast, and is contrary to the matching principle. For these
11 reasons, the Commission should affirm that, until EIM costs are included in base rates, they
12 should offset EIM benefits in the TAM.

Respectfully submitted this 14th day of August, 2018.



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